

16CV005373

FILED

STATE OF NORTH CAROLINA

COUNTY OF WAKE

2016 APR 25 IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

WAKE COUNTY, C.S.C. FILE NO: _____

BY _____

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STATE OF NORTH CAROLINA,
ex rel. Roy Cooper, Attorney General,

Plaintiff,

v.

LIQUIDATION, LLC;
LOAN SERVICING SOLUTION, LLC;
SERVICING COMPANY DE, LLC;
WILLIAM WALTER MCKIBBIN, III;
KEVIN LEE CRONIN;
MARK EDWARD WEINER; and
BOBBY JOE MCKIBBIN; individually
and collectively d/b/a AUTOLOANS, LLC;
CAR LOAN, LLC; and SOVEREIGN
LENDING SOLUTIONS, LLC; and
Other unnamed individuals and entities;

Defendants;

And

NORTH CAROLINA DIVISION OF
MOTOR VEHICLES;

Nominal Defendant only, named
solely for purposes of injunctive
relief.

**PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER
AND A PRELIMINARY INJUNCTION**

Pursuant to Rule 65 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. §

75-14, Plaintiff, the State of North Carolina, *ex rel.* Roy Cooper, Attorney General (“the State”) moves for a temporary restraining order and a preliminary injunction restraining Defendants Liquidation, LLC; Loan Servicing Solution, LLC; Servicing Company DE, LLC; William Walter McKibbin, III; Kevin Lee Cronin; Mark Edward Weiner; and Bobby Joe McKibbin, individually and collectively d/b/a AutoLoans, LLC; Car Loan, LLC; and Sovereign Lending Solutions, LLC; (collectively, “Defendants”) from: (a) making illegal, usurious vehicle title loans to North Carolina consumers, and collecting on any such outstanding loans to North Carolina consumers; (b) repossessing or selling any North Carolina consumer borrowers’ vehicles that secure Defendants’ illegal loans; and (c) placing liens on vehicles or vehicle titles of North Carolina consumers, and transferring such titles, except to transfer titles back to the consumer.

To protect North Carolina consumers and to effectuate the relief sought, the State moves that the Court issue an order authorizing the North Carolina Division of Motor Vehicles (“NC-DMV”) to reject, block, and/or cancel any and all liens currently recorded, in the process of being recorded, or sought to be recorded on North Carolina vehicle titles by Defendants, including blocking any transfers of such titles by Defendants.¹

Because Defendants have engaged in extensive efforts to conceal their actual identities and physical business location(s), and have moved, or are currently moving, substantial funds, including monies collected from consumers, to bank accounts located off-shore—to preserve assets for restitution and the *status quo*, the State also moves that funds in identified corporate

¹ Due to the fact that NC-DMV is included as a party to this action solely for jurisdictional and equitable purposes regarding any future orders of the Court affecting automobile titles and associated liens recorded and maintained as a governmental function of

bank accounts controlled by Defendants be ordered frozen until further order of the Court.

In support of this motion, the State submits the attached affidavits of North Carolina consumers Michael Adams, Tracey Childs, Derron C. Lee, and Ponecha Mitchell; together with the affidavits of Consumer Specialist David C. Evers, Paralegal Jennifer L. Sugar, and Special Deputy Attorney General M. Lynne Weaver, all of the North Carolina Department of Justice; and the State's Complaint. The State's Complaint and attached affidavits demonstrate that:

1. Defendants have advertised, offered, and made usurious vehicle title loans to North Carolina consumers, which are directly prohibited by North Carolina law, including the Consumer Finance Act, N.C. Gen. Stat. § 53-164, *et seq.*

2. The State's evidence indicates that Defendants' loans to North Carolina consumers carry annual percentage rates ("APRs") of interest that range from approximately 161% to 571%, with an average interest rate of 257%.

3. The maximum rate of interest that may be charged in North Carolina on consumer loans is 30%, which may be charged by lenders licensed by the North Carolina Office of the Commissioner of Banks. N.C. Gen. Stat. § 53-176. Unlicensed lenders may charge a rate of interest no greater than 16% on loans made to North Carolina consumers. N.C. Gen. Stat. § 24-1.1.

4. Defendants are not licensed to make loans in North Carolina and have never been so licensed.

5. Defendants have placed liens on North Carolina consumers' vehicle titles as

NC-DMV, the terms "Defendant" or "Defendants" do not include NC-DMV; and NC-DMV is separately identified as "NC-DMV" where applicable.

security for Defendants' usurious loans by filing liens with NC-DMV.

6. Defendants have collected, and are continuing to collect, payments from North Carolina consumers on Defendants' illegal, usurious vehicle title loans. As part of their collections' activities, Defendants have repossessed, and are continuing to attempt to repossess, North Carolina consumers' vehicles.

7. The monetary damage to North Carolina consumers and the concomitant illicit financial gains by the Defendants are significant. Defendants have made at least 700 loans to North Carolina consumers. North Carolina consumers have paid Defendants thousands of dollars, and many have already lost their vehicles due to Defendants' repossession of their vehicles.

8. In soliciting financially distressed consumers for their vehicle title loans, and in their collections' activities, the Defendants have engaged in, and continue to engage in, a pattern and practice of misleading and deceptive representations in violation of N.C. Gen. Stat. § 75-1.1. The numerous deceptive practices perpetrated by the Defendants are more fully enumerated in the State's Complaint.

9. Pursuant to N.C. Gen. Stat. §§ 75-14 and 75-15.1, the Attorney General has the right to obtain mandatory orders, including temporary restraining orders, for violations of N.C. Gen. Stat. § 75-1.1 and to obtain restitution and cancellation of contracts relating to such violations.

10. The harm to the State is the continuing violation of its civil laws and the continuing monetary loss and financial injury to its citizens resulting from the Defendants' unlawful business practices.

11. Enforcement actions have been brought against one or more of the Defendants by the States of Colorado, Michigan, Oregon, and Pennsylvania in connection with Defendants' illegal vehicle title loan business; and injunction orders have been issued in those states against Defendants' lending and collections' activities. Notwithstanding such court orders, the State's evidence indicates that Defendants have continued to attempt to collect on outstanding loans in those states, in violation of court orders.

12. The State's evidence indicates Defendants have engaged in extensive efforts to conceal their actual identities and physical business location(s). In addition, the State's evidence indicates that Defendants have moved substantial sums of money among many bank accounts under different names, and have opened and closed bank accounts with great frequency. Further, the State's evidence indicates that Defendants are regularly moving substantial funds received in connection with their vehicle title lending enterprise to bank accounts located off-shore, including to financial institutions in the Cayman Islands.

13. To maintain the *status quo* and to preserve assets for the payment of restitution to North Carolina consumers, the State seeks an order requiring the funds in identified corporate bank accounts controlled by the Defendants be temporarily and preliminarily frozen, and the Defendants restrained from withdrawing any funds until such time as the Defendants have set aside sufficient funds or security to pay for North Carolina consumer restitution pending resolution of this litigation. Without such relief, there will be irreparable damage to the Court's ability to grant effective relief in the form of monetary restitution and disgorgement of unlawful assets.

WHEREFORE, the State moves the Court for a temporary restraining order and, after

further notice and opportunity for hearing, a preliminary injunction restraining Defendants and their agents from:

- (1) Offering, making, arranging, or collecting on loans, including loans made in the guise of pawns, to North Carolina consumers;
- (2) Repossessing or selling any vehicle currently owned or previously owned by a North Carolina consumer borrower , or located in the State of North Carolina;
- (3) Placing liens on vehicles or vehicle titles of North Carolina consumers, and from transferring such titles, except to transfer titles back to the consumer;
- (4) Transferring, concealing, spending, or disposing of any money or funds received, directly or indirectly, from any North Carolina consumers in connection with the Defendants' vehicle title loans, except to return funds to North Carolina consumers;
- (5) Transferring, converting, encumbering, disbursing, assigning, spending, withdrawing or otherwise disposing of any funds held in any corporate bank accounts controlled by any of the Defendants, or in the name of Loan Servicing Solution, LLC; Loan Servicing Solutions, LLC; Servicing Company DE, LLC; Liquidation, LLC; Sovereign Lending Solutions, LLC; Management Company, LLC; AutoLoans, LLC; Car Loan, LLC; or any other name used by any of the Defendants in connection with their vehicle title loan enterprise; and
- (6) Destroying, removing, transferring, erasing, or otherwise disposing of any business or financial records relating to the Defendants' vehicle title loan services, including but not limited to any business or financial records relating to moneys

obtained from any North Carolina consumer, or in connection with any vehicle title loan made to a North Carolina consumer.

The State further moves that Defendants be required to produce the following records no later than three (3) days prior to the preliminary injunction hearing or within ten (10) days of entry of a temporary restraining order, whichever is sooner:

- (A) A list of the names and addresses of all North Carolina consumers to whom Defendants have made vehicle title loans since 1 January 2011, together with an accounting or itemization of: the loan amount; all payments received from the consumer; whether the vehicle has been repossessed; and, if resold, the resale amount paid by the purchaser;
- (B) The name and address of every bank at which any of the Defendants maintain corporate deposit, checking or other bank accounts, and the account number for each such account;
- (C) A statement of the current monetary balance in each such account held by any of the Defendants, together with a copy of the most recent bank statement for each such account; and
- (D) A current financial statement, showing the current assets and liabilities for the corporate Defendants.

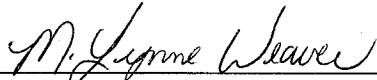
With respect to Nominal Defendant NC-DMV, the State moves for temporary and preliminary orders authorizing NC-DMV to reject, block, and/or cancel any and all liens

currently recorded, in the process of being recorded, or sought to be recorded on North Carolina vehicle titles by Defendants, including blocking any transfers of such titles by Defendants.

This the 25th day of April, 2016.

**ROY COOPER
NORTH CAROLINA ATTORNEY GENERAL**

By:



M. Lynne Weaver
North Carolina Bar No. 19397
Special Deputy Attorney General
Consumer Protection Division
Post Office Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-0000
Facsimile: (919) 716-6050
E-mail: lweaver@ncdoj.gov